

Appl. No. 10/753,974
Amdt. dated February 14, 2007
Reply to Office Action of November 21, 2006

REMARKS/ARGUMENTS

Claims 1-20 and 22 are presented for the Examiner's consideration. Claim 21 has been canceled. Claims 1-20 are the original claims and claim 22 is a new claim.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1, 2 and 3 have been amended to clarify the invention. The wording change does not affect the scope of the present invention, but merely makes the claimed invention clearer to one skilled in the art. Specifically, the claim amendments make it clearer that the top surface of the cover has a larger quantity of hydrophobic fibers as compared to the hydrophilic fibers present at the top surface of the cover layer. No new matter is introduced by the foregoing amendments to claims 1, 2 and 3.

Claim 21 was objected to for containing the phrase "the hydrophilic hydrophobic microfibers". Claim 21 has been canceled in favor of claim 22. Claim 22 is claim 21 rewritten as a new claim rather than using underlining and strike-through to show the amendments. It was decided to handle the amendment in this fashion since the term "hydrophobic" appeared in line 2 of the claim 21 inadvertently. For clarity sake, claim 21 was canceled rather than rewriting it. No new matter is introduced by newly added claim 22.

Claims 1-13 and 15-21 were rejected under 35 U.S.C. § 103(a) as being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Fell et al., U.S. Patent Application Publication No. 2004/0253894 in view of Takai et al., U.S. Patent 6,705,189. This rejection is respectfully traversed.

Before addressing this and the other rejections made in the Office Action dated November 21, 2006, Applicants believe it would be beneficial to again describe the present invention. As claimed, the claims are directed to a disposable absorbent liner having a cover layer, a removable backing layer and a liquid impermeable baffle layer. As is set forth in independent claims 1, 2 and 3, the cover layer has a top surface and a bottom surface and the cover comprises a mixture of hydrophilic microfibers and hydrophobic microfibers. The quantity of hydrophobic microfibers located at the top surface of the cover layer is larger than the quantity of hydrophilic microfibers located at the top surface, based on a total weight of the mixture of microfibers in the cover layer.

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In the statement of the rejection based on Fell et al. and Takai et al., the Examiner acknowledges that Fell et al. fails to teach that the top surface of the cover layer has a larger quantity of hydrophobic fibers as compared to hydrophilic fibers on a weight basis. To remedy this deficiency, the Examiner relies upon Takai et al. to teach a cover sheet that is comprised of a matrix of hydrophilic microfibers with "hydrophobic strips" that contain 1-30% by weight filler. The Examiner seems to equate the hydrophobic strips with hydrophobic fibers since the Examiner states "[t]hus the strips contain 60-99 wt% hydrophobic fibers," citing column 3, lines 39-57 of Takai et al.

Applicants' undersigned representative has carefully reviewed the entire disclosure of Takai et al. and cannot find any disclosure therein which states that the strips 3 are fibrous in nature. Actually, a careful review of Takai et al. reveals that the strips 3 are actually a thermoplastic film applied to the fibrous assembly 2 (See column 1, lines 53-58 and column 4, lines 18-24), not a fibrous material as the Examiner contends. The Examiner goes on to state it would have been obvious to replace the cover of Fell et al. with the cover material of Takai et al.

In order for a claim to be held obvious, the claimed invention "as a whole", including all of the limitations of the claims, must be taught or suggested in the references relied upon by the Examiner. Combining the cover of Takai et al. with the teachings of Fell et al. would not lead one skilled in the art to the claimed invention. Specifically, combining the cover of Takai et al. with Fell et al. would lead to an absorbent article having a cover made of thermoplastic film laminated to a fibrous substrate. As a result, combining Takai et al. with Fell et al., as suggested by the Examiner, does not teach or suggest all the limitations of the present claims; in particular, the limitation requiring that the cover have more hydrophobic fibers at the top surface than hydrophilic fibers. Therefore, independent claims 1, 2 and 3 are not rendered unpatentable based on the combined teachings of Fell et al. and Takai et al.

Regarding dependent claims 4-13, 15-20 and 22, each of these claims depends from one or more of the independent claims and thus contains the limitations of the independent claims. These dependent claims are patentable for the same reason that claims 1, 2 and 3 are patentable, as is stated above. Therefore, rejection under 35 U.S.C. § 103(a) based on Fell et al. and Takai et al. is untenable and should be withdrawn.

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Claim 14 was rejected under 35 U.S.C. § 103 as being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Fell et al., U.S. Patent Application Publication No. 2004/0253894, in view of Takai et al., U.S. Patent 6,705,189, and Cartwright et al., U.S. Patent Application Publication No. 2005/0079987. This rejection is respectfully traversed.

Applicants traverse this rejection on the basis that Cartwright et al. is not combinable with Fell et al. and Takai et al. since Cartwright et al. is directed to a premoistened antimicrobial wipe or pad (which may be placed on a cleaning implement) while Fell et al. and Takai et al. directed to an absorbent personal care article (Fell et al.) and a material which may be used on an absorbent personal care article (Takai et al.). In the statement of the rejection, the Examiner states that Cartwright et al. teaches that fold lines could be imparted to a pad so that the pad may be folded. Even though Cartwright et al. teaches that wipes or cleaning pads for cleaning implements may be folded, the Examiner has not addressed the issue of why one skilled in the art would look to the premoistened antimicrobial wipe art to solve a problem relating to an absorbent pantliner.

It is well established that the Examiner must determine what is analogous prior art for the purposes of analyzing the obviousness of the subject matter at issue. (See MPEP 2141.01) The Examiner has failed to clearly state why Cartwright et al. is reasonably pertinent to solving the deficiencies of Fell et al., as applied to the present claims. Applicants note that Fell et al. is within Applicants' field of endeavor, but Cartwright et al. is not.

Even if Cartwright et al. is combined with Fell et al. and Takai et al., as suggested by the Examiner, Cartwright et al. fail to cure the deficiencies of Fell et al. and Takai et al. Specifically, the Examiner does not address how the combination of Fell et al. and Takai et al. and Cartwright et al. teach the claim limitations of claims 1, 2 and 3, which require that the quantity of hydrophobic fibers at the surface of the cover layer is greater than the amount of hydrophilic fibers at the top surface on a weight basis. As with the rejection under 35 U.S.C. § 103(a) based on Fell et al. and Takai et al., the Examiner's own admission in the statement of the rejection, the claim requirement that the quantity of hydrophobic fibers at the surface of the cover layer is greater than the amount of hydrophilic fibers at the top surface on a weight basis, is not taught by Fell et al. and, as explained above, Takai et al. fails to remedy this deficiency of Fell et al. In addition, the Examiner has not addressed how Cartwright et al. cures or addresses this deficiency of Fell et al. and Takai et al.

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In order for a claim to be held obvious, the claimed invention "as a whole", including all of the limitations of the claims, must be taught or suggested in the references relied upon by the Examiner. Given that the limitations of the independent claims 1, 2 and 3 do not teach the claim requirement that the quantity of hydrophobic fibers at the surface of the cover layer is greater than the amount of hydrophilic fibers at the top surface on a weight basis, the combination of Fell et al., Takai et al. and Cartwright et al. fail to render the claims obvious within the meaning of 35 U.S.C. § 103. Therefore, this rejection is untenable and should be withdrawn.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-3892.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I, Lanette Burton, hereby certify that on February 14, 2007, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 571-273-8300.

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